

Delta Levee Special Flood Control Projects

FINAL

**Interim Guidelines
For
Providing Funding to Local Public Agencies

FY 2008 - 2009**

**Department of Water Resources
Delta Suisun Marsh Office
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INTRODUCTION

The Delta Levee Special Flood Control Projects program was established in 1988 (SB 34) and continues to operate under subsequent legislation that extended and provided funding for the program. Originally, the Program was authorized to address flooding on the 8 Western Delta Islands, Thornton, New Hope and Walnut Grove. In 1996 the Program was expanded to the entire Delta and to portions of Suisun Marsh (approximately 12 miles of levees on islands bordering the Northern Suisun Bay from Van Sickle Island westerly to Montezuma Slough) as outlined in the Section 12311 of Water Code. The Special Projects program has invested over \$200 million in flood control and habitat projects carried out by Local Agencies in the Delta. Each year, this funding has been dedicated to maintaining and improving the aging Delta levees. Approximately 15 percent of the funds allocated to the Special Projects is dedicated to improving, restoring and enhancing habitat in the Delta. With the passage of Proposition 1E and Proposition 84 in November 2006, the amount of money available for levee projects in the Delta has significantly increased. This increase in funding carries a commensurate increase in the need to be transparent and practical about how Special Projects in the Delta are funded. Thus, the Department is developing policy and corresponding *Guidelines* for prudent long-term investments in the Delta. Those *Guidelines* (including guidance on SBX21), however, will not be completed and publicly vetted in time to fund critical flood control projects during the next construction season. Therefore, there is an urgent need to develop a FY 2008-09 plan to direct the funding of No-Regret Actions to design and complete construction before winter rains begin in late 2009.

DEFINITIONS AND ACRONYMS

“Beneficial Reuse Project:” Refers to a Project that makes beneficial use of dredged and other materials.

“CEQA:” The California Environmental Quality Act.

“Corps:” The United States Army Corps of Engineers.

“Cost Share Recommendation and Report:” Refers to the recommendation and report regarding cost sharing that the Applicant must include in its Special Projects application.

“Delta:” The area of the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code. Also referred to as the “Legal Delta.”

“Delta Levee Special Flood Control Projects” or “Special Projects.”: Refers a Project(s) funded under these *Guidelines* -- a Delta Levee Special Flood Control Project, one of the components of the Department’s Delta Levees Program codified at Sections 12300 -12318 of Water Code. Also called

“Delta Primary Zone” or “Primary Zone:” is the Delta land and water area of primary State concern and statewide significance situated within the boundaries of the Delta, as described in Section 12220 of the Water Code, but is not within either the urban limit line or sphere of influence line of any local government’s general plan or studies existing as of January 1, 1992. The precise boundary lines of the Primary Zone includes the land and water areas as shown on the map titled "Delta Protection Zones" on file with the California State Lands Commission. Where the boundary

between the Primary Zone and Secondary Zone is a river, stream, channel, or waterway, the boundary line shall be the middle of that river, stream, channel, or waterway. The Primary Zone consists of approximately 500,000 acres. Cal. Pub. Resources Code Section 29728.

“Delta Secondary Zone” or “Secondary Zone:” is the Delta land and water area within the boundaries of the legal Delta not included within the Primary Zone, subject to the land use authority of local government, and that includes the land and water areas as shown on the map referenced above. The Secondary Zone consists of approximately 238,000 acres. Cal. Pub. Resources Code Section 29731

“Department:” The Department of Water Resources.

“Eligible Applicant” Refers to Local Agencies in the Delta meeting the requirements of the Section 12310 (a) of the Water Code.

“Eligible Projects:” Refers to Projects eligible for funding under these *Guidelines*.

“Eligible Project Costs:” are the reasonable and necessary actual costs associated with an Eligible Project.

“Eligible Real Estate Capital Outlays:” Refers to real estate costs that are eligible under these *Guidelines*. In the Special Projects program, real estate costs are generally the responsibility of the Local Agency. For certain Projects, however, particularly Habitat Enhancement Projects, the Department will fund Eligible Real Estate Capital Outlay Costs. Only reasonable real estate costs for land that has been assessed and deemed suitable for its intended purposes by the Department will be considered Eligible Costs.

“Emergency Response Depot:” Is a facility designed and built to provide on-site emergency supplies for flood events in the Delta.

“Emergency Response Plan:” Refers to an Emergency Response Plan developed by or for Applicant for emergency response in a particular Reclamation District or Area.

“Enhancements:” Refer to the aspects of a Project (described in the cost share section below) that qualify the Project for Enhanced Cost Sharing.

“Enhanced Cost sharing:” Refers to increased State cost sharing (above the Base Cost-Share or Individualize Cost-Share) which an Applicant earns by achieving any combination of Enhancements.

“Financial Plan:” Refers to the plan required by these *Guidelines* that describes, in detail, how the Applicant will fund design, construction, and maintenance of the proposed Project.

“Five-Year Plan” or “Plan:” The Five-Year Plan is a document that describes, in detail, an Applicant’s integrated work plan to repair and improve flood protection infrastructure for the next five years in the geographic district controlled by the Applicant.

“Funding Agreement” or “Agreement”:” An agreement entered into by a successful Applicant and the State to provide funds for the Project.

“Funding Recipient:” A Local Agency in the State of California which is, at the discretion of the Department, duly organized, existing, and acting pursuant to the laws thereof, and is the signatory to a Funding Agreement, and its successors and assigns.

“Habitat Projects” A Project under these *Guidelines* that support no net loss of habitat and net habitat enhancement, including planning and operation where appropriate

“Local Agency” or “Applicant:” A public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof, including, but not limited to, any county, city, city and county, district, joint powers agency, or council of governments.

“Non-Eligible Projects:” Are Projects that are not eligible for funding under the Special Projects programs.

“Non-Project Levee:” Means a local flood control levee in the Delta that is not a project facility under the State Water Resources Law of 1945, as shown on page 38 of the Department of Water Resources "Sacramento-San Joaquin Delta Atlas," dated 1993. Section 12980(e) of Water Code.

“OMRR&R:” Operation, maintenance, repair, replacement, and rehabilitation.

“Project:” Means a proposal for work to be cost-shared by the State under these *Guidelines*.

“Project Description:” Is the document each Applicant must include with their application that describes the proposed project in detail. Though the level of detail provided in this document is at the discretion of the Applicant, it is in their best interest to offer as much detail and documentation as possible, as the eligibility and ranking criteria in these *Guidelines* require a great deal of specific information.

“Project Levees:” Is a federal flood control levee, as shown on page 40 of the Department of Water Resources “Sacramento-San Joaquin Delta Atlas,” dated 1993, that is a project facility under the State Water Resources law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639 of Part 6), if not less than a majority of acreage within the jurisdiction of the Local Agency that maintains the levee is within the primary zone of the delta, as defined in Section 29728 of the Public Resources Code.

“Scope of Work:” After a Project is selected and before a Project Funding Agreement is signed, the Applicant must develop a Scope of Work that provides detailed plans about how the Project will be constructed.

“Semi-Urban Area:” Any contiguous area in which more than 1,000 and less than 10,000 residents are protected by Project Levees. This means that a Project Levee failure could flood the residences of more than 1,000 and less than 10,000 people in a single Area.

“Setback Levee:” A new levee constructed behind an existing levee which allows for removal of a portion of the existing levee and creation of additional floodplain connected to the stream. In the Delta, a Setback Levee may not necessarily result in removal of the existing levee.

“Special Projects Solicitation Letter:” Refers to the solicitation letter the Department will issue to inform Local Agencies that the Department is ready to accept Special Projects applications. This letter also offers Applicants specific information about deadlines and more information regarding how to apply for Special Project funding.

“State:” The State of California, acting by and through the Department of Water Resources.

“Urban Area:” Any contiguous area in which more than 10,000 residents are protected by Project Levees. This means that a Project Levee failure could flood the residences of more than 10,000 people in a single Area.

“NO-REGRETS” ACTIONS

The Department is developing a long-term levee policy in the Delta that will be adapted as the Delta Risk Management Strategy (DRMS) and a number of other planning processes are finalized. Those processes include but are not limited to the Delta Vision Strategic Plan, the Bay Delta Conservation Plan, the CALFED Ecosystem Restoration Program strategic plan, FloodSAFE California, and the Strategic Plan of the State Water Resources Control Board. However, the rehabilitation of Delta levees requires on-going efforts, and will ultimately be driven by the funds available. For the purposes of these Guidelines, “No-Regrets Actions” are strategic actions that can be taken immediately that are not only consistent with, but can be integrated into, all current planning activities in the Delta.

These Interim *Guidelines* direct funding to No-Regrets Actions that can be implemented immediately with funds with the FY 2008-09 Budget. These No-Regrets Actions include levee and habitat projects that:

- Are clearly legislatively authorized;
- Protect infrastructure of statewide importance;
- Support ongoing emergency response activities; or
- Repair or improve critical sections of levees at or below the PL 84-99 levee standard.

This year’s Budget provided approximately \$51 million for the FY 08-09 Delta Levees Program. Of this, \$20 million has been reserved for the Delta Levees Maintenance Subventions Program (Subventions Program) as approved by the Central Valley Flood Protection Board on October 17, 2008, pursuant to Sections 12980-12995 of the Water Code. All No-Regrets Actions will be funded with the remaining \$31 million available for the Delta Levees Special Flood Control Projects this year.

ELIGIBLE PROJECTS

The Special Projects could fund a wide variety of eligible work. Projects involving levee evaluation, repair, or improvement (including engineering, studies, and research); Delta Local Agency research, planning, engineering; and other such planning or evaluation work all may be Eligible Projects. Under these Interim *Guidelines*, this list of Eligible Projects must also meet the “No Regret Projects” requirements discussed in the previous section.

The Department reserves the right to increase the funding for previously approved Projects with executed Project Funding Agreements that have active Funding Agreements by amendment in order to complete these projects in a timely manner.

The following is a list of potentially Eligible Projects. Each potential Project is briefly described; however, description is meant to offer ideas as to what this category of Projects could include; it is not an exclusive description. Local Agencies are not limited by these specifics and may propose projects that do not fit within this description. Moreover, these descriptions are not meant to limit in any way the Department’s discretion to determine Project eligibility. Eligible projects include both those chosen through the competitive solicitation process and those that are separately developed through a collaborative process including the Department and Local Agencies. The department will apply these guidelines as applicable, to directed activities of the Department.

- Field Investigations, including electromagnetic survey, geodetic survey, or other testing research needed to formulate the Scope of Work;
- Habitat Projects, including restoration and protection that fulfills both mitigation and enhancement objectives. This includes planning, management, and monitoring;
- Setback Levees, to reduce flood risk for the Local Agency;
- Levee improvement, to reduce flood risk for the Local Agency;
- Alternative levee Projects, built to protect legacy Delta towns;
- Levee repair, as needed to improve the levee integrity and provide additional flood risk reduction benefits to the Local Agency;
- Emergency response planning and preparedness, to protect the Delta islands from flooding during a high water event and maintain Delta water quality;
- Engineering analysis and design work, needed to pursue a levee project;

- Environmental permitting and planning work. This work includes preparing CEQA or NEPA documents, obtaining other environmental permits (e.g., USACE, FWS, or DFG permits), preparing and filing environmental documents related to a specific project or developing programmatic documents for future projects;
- Planning studies, to better understand the future flood control needs of the Local Agency;
- Scientific studies and research, to assist the Department and Local Agency to better understand Delta characteristics such as subsidence or ecosystem restoration related to flood control;
- Beneficial Reuse Projects, to assist federal, State, and Local Agencies to promote the beneficial reuse of clean dredged materials for levee rehabilitation and habitat enhancement projects as appropriate; and
- Projects, protecting water supply and quality.
- Development of a Five-Year Plan, for rehabilitation of its facilities to a desired level of protection

INELIGIBLE PROJECTS

Ineligible Projects include those directly related to work on agricultural, water supply and waste disposal facilities. Such Projects generally do not meet the primary purpose of the Special Projects and the intent of California Water Code Section 12311: “the protection of discrete and identifiable public benefits, including the protection of public highways and roads, utility lines and conduits, and other public facilities, and the protection of urbanized areas, water quality, recreation, navigation, and fish and wildlife habitats, and other public benefits.” For the purposes of these Interim *Guidelines* Ineligible Projects might also include Projects that do not meet the “No Regret” requirements, but might otherwise be eligible. To the extent a Project appears ineligible but actually may meet the intent of Water Code Section 12311, the Department retains discretion to approve the Project. Non-eligible Projects may include, but are not limited to:

- Drainage projects when the scope of the proposed Project is the responsibility of the Local Agency as part of its regular routine maintenance work;
- Irrigation projects;
- Projects that support agricultural operations, such as repair of pumping stations, or routine maintenance activities, such as maintaining drainage ditches that are the responsibility of the Local Agency;

- Water supply projects to develop or repair facilities for the purpose of water delivery within the jurisdiction of the Local Agency (Projects increasing protection of water supply facilities are eligible);
- Projects that do not meet the “No Regrets” requirements discussed above; and
- Waste disposal projects to develop or repair conveyance facilities for the purpose of waste disposal within the jurisdiction of the Local Agency.

ELIGIBLE COSTS

Eligible Project Costs are the reasonable and necessary actual costs associated with an Eligible Project incurred after November 7, 2006 (date of passage of Propositions 84 and 1E). Credit and/or reimbursement will not be provided for work completed before a Project Funding Agreement is executed, except in extraordinary circumstances when the Local Agency has obtained the prior written authorization from the Department. Eligible Project costs may include, but are not limited to, the following:

- Project engineering, design, and construction costs;
- Costs of planning and implementing (including operations and monitoring) habitat mitigation and enhancement associated with the project
- Costs of obtaining environmental permits and associated environmental mitigation costs including the costs of preparing CEQA and NEPA documents (if applicable) that are directly related to and necessary for the proposed Project;
- Costs of obtaining other necessary federal or state governmental approvals;
- Reasonable legal fees associated with incurring Eligible Project Costs, such as those listed above;
- A proportionate share of reasonable overhead costs;
- Cost of conducting a Project Review, if required by the Department; and
- Eligible Real Estate Costs. Special Projects real estate costs are generally the responsibility of the Local Agency. For certain Projects, including habitat projects and a range of levee projects, the Department may fund a portion of real estate costs. Only the fair market value of real estate costs for land that has been

appraised and deemed suitable for its intended purposes by the Department will be considered Eligible Costs.

INELIGIBLE COSTS

Costs that are **not** eligible include, but are not limited to, the following:

- Operation, maintenance, repair, replacement, and rehabilitation costs of the completed levee works;
- Purchase of equipment that is not an integral part of the Project;
- Replacement of existing funding sources for ongoing projects;
- Support of existing Local Agency requirements and mandates;
- Purchase of land in excess of the minimum required acreage or at a price in excess of its market value. For purposes of Special Projects, the minimum required acreage is determined by the amount of acreage an agency purchases to acquire the land it actually needs. For example, if an agency needs a 1 acre piece of land inside a 5 acre parcel and the landowner is only willing to sell the 5 acres as a whole, the minimum required acreage is the 5 acres, not the 1 necessary acre;
- Costs that the State does not authorize as part of final accounting; i.e. works not related to flood protection and/or habitat.
- Costs incurred as part of any and all necessary response and cleanup activities required under CERCLA, RCRA, Hazardous Substances Control Act or other applicable law; and
- Costs, including engineering and environmental expenses, associated with preliminary studies to choose a preferred alternative, unless previously approved by the Department.

FIVE-YEAR PLANS

Each Local Agency in the Delta will have an opportunity to assess the current conditions of its levees and develop a strategic Five-Year Plan for rehabilitation of its facilities to a desired level of protection. **Five-Year Plans will likely be required for all Special Projects applicants under the future Program Guidelines. As a result, the Department strongly urges all Local Agencies to request funding for, and complete, Five-Year plans this year.** The State will fund 100% of the first \$50,000 spent on the preparation of Five-Year Plan, 75% of any costs between \$50,000 and \$100,000 and will not share any costs related to the Five-Year Plan beyond \$100,000. The Five-Year Plan must provide an assessment of the district's existing levee system and a strategic plan to meet a desired level of protection. These plans must identify risks to island

assets and provide a long-term funding strategy. Habitat mitigation and/or enhancement plans must also be described along with description of how the planned projects will address CEQA and other permitting requirements. An outline of what is required in the Five-Year Plan is attached as Appendix A.

FUNDING PRIORITIES

➤ Eight Western Delta Islands, Thornton and Walnut Grove, and exterior levee of portions of the Suisun Marsh

Funding for the Eight Western Delta Islands and approximately 12 miles of levees on islands bordering the Northern Suisun Bay from Van Sickle Island westerly to Montezuma Slough remains a priority since there are many sections of levee remaining that could fail with a less than 100-year event. Protection of these islands is legislatively mandated in Section 12311 of water Code. As a result, the selection criteria below will, to a certain degree, prioritize work on these islands.

➤ Critical Infrastructure Islands

These Islands protect Highway 12, Highway 4, Highway 5, and other State transportation routes which are critical transportation arteries in the Delta. Moreover, there are many sections of levees on these islands below PL 84-99 Standards. As a result, associated levee rehabilitation work is considered a no-regret action and will rank high on the selection criteria discussed under the Project Selection section.

➤ Habitat Projects

All Delta Local Agencies will be eligible for reimbursement of the costs related to habitat mitigation and/or enhancement projects associated with Special Projects as discussed in the Water Code.

➤ Directed Activities

The Department reserves the right to develop and support projects through a collaborative process between the Department and Local Agencies. As indicated above, the Department will apply these guidelines, as applicable, to such directed activities.

➤ Reserve Fund

Three million dollars (\$3 million) will be set aside from the \$31 million for emergency response until after the flood season (April 2009.) If this money is unspent, it will be used to fund additional eligible projects in the Delta.

COST SHARE

In FY 2008-09, the State's share of Special Projects costs for the Eight Western Delta Islands will be the percentage determined by existing Ability-to-Pay studies. The base State cost share for

the work to raise the levees to the HMP standard for all eligible Local Agencies in the Delta will be 90% of the total project cost. The base State cost share for any other works will be 75%. All Local Agencies (including the Eight Western Delta Islands) may obtain additional Enhanced Cost-Sharing, at the Department's discretion, for projects that include certain Enhancements in their design. The maximum State cost share will be limited to 95% of the total project cost. Enhanced Cost-Sharing may include:

- Up to 10% additional State cost-share for Projects that include emergency response plans or provide for construction of emergency response depots;
- Up to 10% additional State cost-share for projects that fully mitigate their habitat impacts at the time of construction and contribute to net habitat improvement;
- Up to 10% additional State cost-share for Projects that offer significant measures aimed at subsidence reversal;
- Up to 10% additional State cost-share for Projects that protect Statewide interests including water quality or water supply benefits;
- Up to 10% additional State cost-share for Projects that bring additional funding from partnering with other agencies.

Habitat projects fulfilling the requirements of the law may, at the discretion of the Department, be reimbursed at the rate of 100% of the costs associated with planning and implementing the projects.

COORDINATION

Coordination between our partner agencies such as the Central Valley Flood Protection Board, Department of Fish and Game (DFG) and the US Army Corps of Engineers (Corps) and with other CEQA Responsible Agencies will continue as in the past. The Department will also coordinate its levee projects with FloodSAFE California, the DRMS working group, and other efforts such as BDCP and Delta Vision as appropriate.

APPLICATION PROCESS

The Department will issue two different Special Projects Solicitation Packages (SPSP). The first will be provided to all Delta levee districts for preparation of Five-Year Plans requesting the required information for developing a Five-Year Plan described above. A separate SPSP will be sent to those islands in the western Delta and those districts whose levees protect critical State infrastructure as well as habitat enhancement projects. This SPSP will require a detailed Project Description provided by the district engineer, a Scope of Work, a project cost estimate, a Cost Share Recommendation and Report, a Financial Plan, and a Resolution from the district authorizing the application.

PROJECT SELECTION

Projects will be selected by DWR based on critical needs for flood protection or habitat, paying specific attention to the priorities discussed above. Project size will be limited to no more than \$2 million to achieve economies of scale yet maintain the ability to complete the project in one construction season.¹ If the Department receives applications for more projects than existing funding would allow, then applications will be ranked by staff according to the following criteria:

Criterion	Raw Score²	Weighted Score	Notes
Protection of Life and Safety (in Delta Primary Zone) (High Importance)	6= top third of applications in terms of number of people and emergency services facilities protected. 4=top two thirds of applications in terms of number of people and emergency services facilities protected. 2=bottom third of number of people and emergency services facilities protected.		This criterion rates each project based on the protection of life in populated areas and emergency services facilities such as fire stations and hospitals. Local Agency to offer sufficient information to meet this criterion. Department has discretion to check for reasonableness and accuracy of submitted materials.
Increase in Level of Protection (High Importance)	6= Facilities currently under Hazard Mitigation Plan 4= Facilities currently between HMP and PL 84-99 2=Facilities currently above PL 84-99		This criterion rates each project based on protection of existing lands from flooding, urgency of the work, and potential damage to properties. Local Agency to offer sufficient information to meet this criterion. Department has discretion to check for reasonableness and accuracy of submitted materials.

¹ The Department may, in unique circumstances, fund projects that cost more than \$2 million.

² Each Project may only receive one score for each category, such that the maximum score in any one category is six for high importance or three if the category is of medium importance. By way of example, a Project that purports to work on a levee that will protect a state highway and a railroad does not get a six and a four (for a total of ten for that category), it only receives a six.

<p>Protection of Assets of Statewide Importance</p> <p>(High Importance)</p>	<p>6=Protects Delta water quality and reliability, Mokelumne Aqueduct and/or a State Highway. Also, protects portions of the Suisun Marsh exterior levee as specified in the Water Code.</p> <p>4=Protects important infrastructure such as; local government infrastructure, federal infrastructure, utilities, railroads</p> <p>2=Protects other important items, as justified by applicant</p>		<p>This criterion rates each project based on protection of State Highways including Highways 4, 5, 12 and 160. Also, protection of water quality and reliability. Other important items include government buildings.</p> <p>Local Agency to offer sufficient information to meet this criterion. Department has discretion to check for reasonableness and accuracy of submitted materials.</p>
<p>Habitat Restoration or Enhancement</p> <p>(High Importance)</p>	<p>6=Project meets its own environmental requirements, contributes to program-wide mitigation as well as net habitat improvement.</p> <p>4= Project meets its own environmental requirements and contributes to program-wide mitigation.</p> <p>2= Project meets its own environmental requirements</p>		<p>This criterion rates each project based on the protection, restoration, and enhancement of habitats.</p> <p>Local Agency to offer sufficient information to meet this criterion. Department has discretion to check for reasonableness and accuracy of submitted materials.</p>
<p>Partnerships</p>	<p>3= Project includes significant non-State funding (a minimum of 50% of total project cost).</p> <p>2= Project includes more than nominal funding</p>		<p>This criterion rates each project based on the Local Agency close working relationship with other interested groups. Participation in Federal projects receives high ranking.</p> <p>Local Agency to offer sufficient</p>

(Medium Importance)	<p>from other State agencies or non-State organizations.</p> <p>1= Project does not receive any outside funding, but does meet the requirements.</p>		<p>information to meet this criterion. Department has discretion to check for reasonableness and accuracy of submitted materials.</p>
<p>Demonstrated ability of the Local Agency to meet its obligations in prior commitments to the Department.</p> <p>(medium Importance)</p>	<p>3= Local Agency has exhibited ability to meet or exceed all obligations to the Department in the past or can make a showing it is likely to do so on this Project</p> <p>2= Local Agency has met obligations in the past or can make a showing that it will on this Project</p> <p>1= Local Agency may not meet obligations as evidenced by past experience or because Local Agency is unable to make a showing to the contrary</p>		<p>This criterion rates each project on the likelihood that its proponent will meet or exceed obligations to the Department.</p> <p>Local Agency to offer sufficient information to meet this criterion. Department has discretion to check for reasonableness and accuracy of submitted materials.</p>
<p>Protection of Local Assets</p> <p>(Medium Importance)</p>	<p>3= Top third of applications in terms of amount (in dollars) of local assets protected by subject facility</p> <p>2=Top two thirds of same</p> <p>1= Bottom third of same</p>		<p>This criterion rates each project based on protection of local businesses, agricultural related equipments and facilities.</p> <p>Local Agency to offer sufficient information to meet this criterion. Department has discretion to check for reasonableness and accuracy of submitted materials.</p>

Ranking Example: A Local Agency submits a proposal for work on 2 miles of levee in one of the Eight Western Delta Islands. The Local Agency is able to demonstrate in the application that the levee work will protect a State highway and will protect 100 people, which puts it in the middle of all applications in terms of the number of people the work would protect. The Project would

include work on 1.5 miles of levee that is above HMP but below PL 84-99 and .5 miles of levee above PL 84-99. Moreover, the Project meets its own ecosystem requirements, garners no additional money from other agencies, and will fix levees that protect \$50 million in local assets (which puts it in the middle of all applications in terms of total local assets to be protected).

How will this be scored? Here is a tally and a brief explanation:

1. 4 points for protecting enough people to rank in the top two-thirds of all project applications;
2. 4 points because the lowest ranking facilities are below PL 84-99. As noted above, some of the Levee to be worked on is already above PL 84-99, but this category will be scored by the lowest level of protection to be improved in the Project;
3. 6 points for protecting a State highway;
4. 2 points for meeting its own ecosystem requirements;
5. 1 point for meeting DFG and other requirements (but no more);
6. 2 points for protecting \$50 million in local assets (because it is in the top two thirds of applications).

The final score will be the sum of these category scores, here a 19. That total score will be compared against all other Projects in order to rank them.

Subsequent to assessing all applications using this scoring system, Department staff will rank the projects and provide recommendations to management for Director's approval of funding for the selected projects. The public will be provided a copy of the list of selected projects along with a brief description of each project.

REQUIRED APPLICATION MATERIALS:

The applications must include the following when requesting funds for the projects:

- An application cover sheet that provides an overview of the Project;
- A statement identifying the applicant's representatives;
- A resolution signed by the Local Agency authorizing submission of the application and designating a representative to sign the application, entering into a contract with the State of California, implementing a flood protection program, and levying assessments and charges;
- A Project Description; including maps, drawings and a statement explaining the assets the project will protect and justification on the need of for the project. The level of detail provided in the Project

Description is at the discretion of the Applicant, but it is in the Applicant's interest to offer as much detail and documentation as possible, as the eligibility and ranking criteria in these *Guidelines* require a great deal of specific information;

- A statement from a professional civil engineer who has reviewed the Project Description discussing the benefits of the project to flood protection and/or habitat;
- A statement of expected Project costs and Finance Plan;
- A description of the required environmental permits, schedule for permit completion, and description of how project will meet the requirements of Water Code Sections 12314, which require no net loss of habitat and consistency with net habitat improvement.
- A proposed cost-sharing recommendation detailing the amount of State cost-sharing to which the Local Agency believes it is entitled;
- A statement of loans from other sources or bonds that are associated with the Finance Plan and a statement of repayment method and loan security for such other financing sources; and
- A checklist of attachments.

All participants are subject to State and federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code, Section 1090, and Public Contract Code, Sections 10410 and 10411, for State conflict of interest requirements.

In addition, the Applicants will be required to keep informed of and take all measures necessary to ensure compliance with applicable California Labor Code requirements, including but not limited to Section 1720 *et seq.* of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5) and payment of prevailing wages for work done under this Funding Agreement.

For Projects that receive funding pursuant to the provisions of Prop. 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, Cal. Pub. Res. Code § 75076 *et seq.*, the Funding Recipient will be required to maintain a labor compliance program that meets the requirements of California Labor Code Section 1771.5. Written evidence of the Labor Compliance Program will need to be submitted to the State before the project is funded.

PROJECT ADMINISTRATION

Selected projects will not be funded until a Funding Agreement is executed between the State and Local Agency. This Funding Agreement is comprehensive and will cover reporting requirements, work plans, progress reports, statements of cost, State hold-backs, and more.

ATTACHMENT - A

Requirements for the Five-Year Plan

1. Assessment of the status of existing levee system and future goals

The Plan should provide a clear description of the following:

- a. *Describe historical flood problems, including:*
 - ◇ *Dates of events*
 - ◇ *Estimated flood frequencies of events*
 - ◇ *Levee performance during these events,*
 - ◇ *Consequences of events*
- b. *What is the existing level of protection provided by the levee system? Include the source of this information. Specifically,*
 - ◇ *What portion of the levee is below or at HMP Standard?*
 - ◇ *What portion of the levee is at PL84-99?*
 - ◇ *What portion of the levee is above PL84-99?*
- c. *What level of protection is expected to be achieved at the end of the five years? Provide justifications in support of the anticipated outcomes.*

2. Strategy to meet desired level of protection

The Plan should elaborate on the desired level of protection at the end of five years (item "c" above) and discuss the following:

- a. *A complete description of the desired level of protection as a goal to achieve in the next five years.*
- b. *Phasing of the work, including a description of recommended projects needed to achieve the five year goal*
- c. *Total estimated cost of the work and its distribution on a project-by-project basis over the five years*
- d. *Potential cost sharing with other partners*
- e. *Schedule of work*
- f. *Discussion of potential obstacles to meet the desired goal*

3. Identification of need for improvements to alleviate or minimize existing hazards

The Plan should provide an inventory of the local and non-local assets/critical infrastructures, both public and private, being protected by the levees. Local assets are those for which the Local Agency can levy assessments for flood protection; non-local assets are those the Local Agency cannot levy assessments. The Local Agency should identify public benefits where applicable, such as:

- ◇ *Water quality*
- ◇ *Recreation*
- ◇ *Navigation*
- ◇ *Fish and wildlife*
- ◇ *Protection of State Infrastructure*
- ◇ *Other*

4. Identification of the risks for current land use based on the existing assets

The Plan needs to discuss risks associated with levee failure. In particular:

- ◇ *Consequences of levee failure or breach*
- ◇ *Existing deficiencies in the system, including existing seepage, boils, or voids under the levee*
- ◇ *Urgency of repair work*

5. Identification of opportunities for multi-objective projects

The Plan should, at a minimum, describe opportunities and significant constraints for achieving the following objectives:

- ◇ *Ecosystem restoration and habitat enhancement component*
- ◇ *Reversing land subsidence.*
- ◇ *Ensuring adequate and effective emergency response plans*
- ◇ *Benefitting water quality*
- ◇ *Improving water supply reliability*

6. Habitat Mitigation and Enhancement

The plan should describe how work to be carried out under the plan will meet the requirements of Water Code Sections 12314 which requires no net loss of habitat and consistency with net habitat improvement. The plan should describe the following:

- a. Baseline habitat conditions prior to the plan
- b. The anticipated impact to habitats and anticipated extent of the impact based on the identified needs for levee repair and other work outlined in the plan
- c. How the requirements for no net loss of habitat, and net habitat enhancement will be met.

7. Compliance with CEQA and obtaining required permits

The Plan should describe all of the following:

- a. *Types of permits and environmental compliance documents required*
- b. *Status of the environmental documentation*
- c. *Status of the permit process*